

**Woodstock Zoning Board of Appeals
Tuesday, November 9, 2016
Regular Meeting– 7:00 p.m.
Town of Woodstock Town Hall, lower level, Meeting Room B**

MINUTES

I. Public Hearing

- a. Call to Order – Meeting was called to order by Chair William Brower at 7:00 p.m.
- b. Roll Call – Raymond Smith, Suzanne Woodward, Robert Laurens, Martin Nieski, William Brower

Others present: Tina Lajoie (ZBA staff), Delia Fey (ZEO), Amy Hare, Richard Roberts, Esq., Donald & Ann Hare, Jane Newall, Deborah Vuillemot, Orion Newall, Norm Thibeault, Leon & Carolyn Parrott, and many others.

c. #16-03 Amy Hare, Trustee & Donald E. & Ann F. Hare, 88 Pulpit Rock Rd – Appeal of ZEO for the issuance of a zoning permit to Jane Newall & Deborah Vuillemot, 78 Pulpit Rock Rd., for a 40’ x 8’6” box car to be used for storage.

Legal notice published in the Woodstock Villager on October 28 and November 4 was read for the record regarding a public hearing. Ground rules for the hearing are set by Chair Brower. Anyone who wishes to speak is asked to come to the podium and state their name and address clearly for the record. Chair will allow everyone to speak and asks to limit multi-repetitive and off subject comments.

Rich Roberts, attorney for the Hares, is present and states the following. The Hares are not present to maliciously undermine the drive and personal initiative of a young man with an ambitious objective or to attack historic preservation of railroad artifacts. As stated, the issue at hand is the interpretation of the zoning regulations. ZEO has classified boxcar as a shed or accessory structure. Mr. Roberts and his clients do not agree with describing a railroad car as a building or structure, but it is more of a vehicle designed and constructed to be used for the movement of goods and materials on a railroad track. He believes categorizing in this way may open up the door for any other large heavy item that can store things to be similarly described as an accessory structure, like a tractor trailer, storage containers, boats, airplanes and cargo ships. If ZBA agrees with the ZEO’s interpretation to consider the railroad as a building, then the definition of accessory building should be considered in this decision. Is this structure customarily incidental and subordinate in size and magnitude to the principal building? Attny Roberts believes that this boxcar would not be defined in this way and is not customarily incidental and subordinate to a residence. The definition that comes closest to describing the boxcar, according to Attny Roberts, is “Junk”, dilapidated wood or metal motor vehicle abandoned from its original use but which might be used again in its present or in a new form. He states, “Collecting junk is prohibited by the zoning regulations.”

Delia Fey, Zoning Enforcement Officer, presented her rebuttal to the applicant’s argument in a memo submitted for the record, and then summarizing these key points for the public. As

she summarized, she had a discretionary duty to respond to the boxcar and determine, based on the proposal that it was to be in a fixed location for a number of years and used for storage, similar to a shed or accessory structure. A zoning permit was required meaning that the structure would receive no special treatment from any other delivered structure in town. The weight of the structure had no bearing on her decision and she did not have this information. This property is in the Community District, as is most of the town and there are no special zoning regulations. The Scenic Road Ordinance that applies to Pulpit Rock is not about land use, but regulated activities within the town's road right-of-way. Since this was a zoning permit and not a special permit, no requirement for notifying neighbors or to have a public hearing. The same process was demonstrated as for all other zoning permits issued. Building Official did determine that no building permit was required. Boxcar does not change the use of the property and it is still considered a residential use for the existing single family home. Boxcar will be restored as a hobby by one of the residents and therefore not a business. Zoning does not regulate lead paint, color or design of any structures. Condition of the boxcar is considered no different than many of the older homes or other structures in town in need of repair.

Donald Hare, 88 Pulpit Rock Rd. – His comments are related to the issuance of a permit which they believe was faulty in its issuance to locate a boxcar for purposes of restoration and storage at 78 Pulpit Rock Rd. There is no complaint on what the neighbor is proposing, they just do not want this type of activity in a residential neighborhood for the following reason: the lead paint. Risks of lead paint are explained, particularly with young people. The regulations today through EPA, OSHA, HUD, State of CT have significant regulations on handling and removal of lead painted material. They require that the paint removal be done by licensed, certified and trained specialists with proper equipment and very often in an enclosed space. He states that he has concerns with the contamination of the watershed. He explains the drainage path that ultimately goes to Roseland Lake and into the City of Putnam's water system. Biggest concern is the lead paint. He thanks the Board for their time.

Amy Hare, Trustee for 88 Pulpit Rock Rd. - As previously stated, the family is not appealing the permit to restore a boxcar. She applauds Orion's ambition to take on this project. The fact that it will occur in a residential area by an unlicensed, unsupervised person is concerning. Questions posed on social media are answered by Ms. Hare. She believes this restoration should take place in a contained location by qualified professionals to protect people and our environment.

David Fortin, 9 Nelson Rd. – He gives an overview of his experience on the Planning & Zoning Commission for many years. In his professional review of the situation, he determines that the complaint is not about zoning and not supported by the zoning regulations. If the permit is rescinded by ZBA, then it would be an unregulated activity and the Town of Woodstock would have no authority over what this young man is going to do as far as restoring this, no different than an old tractor, a peeling paint barn, etc.

Howard Pinkus, not a resident of Woodstock, is the president of the Naugatuck Railroad. Statements are as follows. The use of this car as a storage shed is a historic use. Regarding the size, it is comparatively smaller than most tractor trailers encountered on the roads. He

also comments on the history of the car, back in 1985 he was involved in the repaint of the car. He states that at the time, there was virtually no paint on the car. A number of pieces of the side wood sheathing were replaced and no lead paint was used in the repainting and the peeling paint that is evident currently is non-lead. Lead paint is an issue for all homes built prior to 1975, either inside or outside, and describes the lead paint issue as a “red-herring” argument. Mr. Pinkus takes a moment to acknowledge the commitment and drive of this extraordinary young man and further states that this country needs 10,000 more like him. (Audience clapping.)

Orion Newall-Vuillemot - 78 Pulpit Rock Rd – Orion shares the information he was given on the lead paint, the fact that he cannot guarantee that there isn’t some trace of the lead paint, but certainly minimal. He explains the way the boxcar is affixed to the surface is solid, built to specifications and designed by Glenn Boisse, who helped him with this project. The car was unloaded and they were informed of the appeal the day before the car was delivered and it was too late to cancel. Many people have been involved in the successful relocation of the car and he thanks everyone who helped.

Jane Newall - 78 Pulpit Rock Rd – Orion’s mother states that he has been very thorough with this project, consulting with town officials ahead of time to ask about requirements. All the neighbors were consulted prior to and some donations were given of money and time to help on site. She comments on the concern regarding the lead. She reassures the public that they would not put the neighborhood or their own family at risk with any lead contamination. They do make maple syrup and they will not be damaging any of the trees they tap or the environment. When they get to the portion of the car that might contain lead paint, they will be making sure it is done correctly. NDDH has been in contact and did not express any concerns. Many other personal restoration projects are being done around town without a problem. She trusts Orion will follow through on any required procedures to ensure safety.

Deborah Vuillemot, - 78 Pulpit Rock Rd – Resides at the residence. She is very concerned that this hearing is concerning lead paint and reminds the public that this issue is about zoning only. A zoning permit was issued for a structure that was placed on the property for storage. There have been no rules or regulations that were disobeyed. Restoration has not commenced to date. She classifies this 40’x8’, 320 square foot structure as an accessory structure, as defined in the zoning regulations, similar to the neighbor’s barn that was delivered by a truck.

Delia Fey – Zoning does not regulate lead paint and does not prohibit people from constructing an accessory structure that looks like a boxcar out of new or reclaimed materials and to be placed on a metal frame or wheels. This boxcar could be taken off the wheels and placed on blocks or some other temporary foundation and be used in that manner. This use would not violate the zoning regulations, in her opinion.

Rich Roberts – His comments in response are: antique cars were not painted with lead paint. Article IV of the performance standards for all structures and uses within any zone include, “No dust, dirt, fly ash, smoke particulates, fumes, or gases shall be emitted into the air in violation of Federal, State, and local statutes, regulations and ordinances.” And, “No

offensive, harmful, toxic, or hazardous waste as determined by the Connecticut Department of Energy and Environmental Protection shall be discharged into any watercourse, waterbody, wetlands, into or onto the ground, or onto any adjoining property.” He believes this does prohibit any hazardous substances from going onto the ground or air.

Delia Fey responds to ZBA questions on what is considered junk in the zoning regulations. Orion Newall-Vuillemot expresses his opinion on why this boxcar should not be considered as junk.

Ray Smith, ZBA Member, states for the record that he is a resident of Pulpit Rock Rd but not an abutter or close by and he believes that he can participate as a member in the decision making process honestly, fairly and without prejudice and will not be recusing himself.

David Fortin – He comments that he has been on the PZC for many years and understands how difficult this can be. He clarifies the key items for the Board prior to their review.

Definition of a structure from the Zoning Regulations is read for the record by Chair Brower. Definition of junk is read for the record by Ms. Hare and she also points out that one of the prohibited uses in the zoning regulations is having junk.

Ann Rathbone, 54 Prospect Street – She comments that she resides next to what she describes as an “eyesore” with dilapidated buildings and junk cars and nothing has been done about it.

Glenn Boisse, 98 Ojala Rd – In response to “junk” most restoration projects look like junk until they are complete.

Deborah Vuillemot, no dust has been spewed from their property. They fully intend to follow all CT laws with this project.

Sue Foster, 271 English Neighborhood Rd – She expresses her confidence in Orion and his family to handle the lead abatement, if any, properly.

Orion Newall-Vuillemot – States that Jodi at NDDH contacted him about the boxcar and information was provided from Mr. Pinkus as to when the car was repainted. The Building Inspector did inspect the structure and determined it was structurally sound and no problems. If sanding does occur, he will make sure the area is protected because he makes maple syrup and would not be careless.

Delia Fey – Clarifies and comments that the definition of structure in the zoning regulations does include “assembled and location on the ground”. This boxcar was assembled and existing on a location on the ground and would not be considered as “junk” if found structurally sound by the Building Official. Would not be considered abandoned, as stated, since there is a new owner who intends to restore it.

Joe Cerretto – Not a Woodstock resident. He is the Founder of the CT Eastern Railroad Museum in Willimantic. He is involved with several other railroad museums in CT that also engage in restoration of what they call “rolling stock” or railroad equipment. They all follow the EPA regulations and guidelines. None of the museums have ever had a problem. He reiterates the fact that this car was restored in 1985 and any lead paint that was present was removed at that time and what was applied then and now peeling is not lead paint.

Nathan Fontaine – 5 Lane Rd – Orion’s friend from school and has great trust that he will restore this boxcar, and piece of history, properly and this work will impose no threat to the environment.

Rich Roberts – Final summary: “Abandoned railroad rolling stock is not a structure that is customarily incidental to a residence in Woodstock.”

Orion Newall-Vuillemot – Final summary: “It was not abandoned when I got it. There was stuff stored in it and it’s been used as storage.”

MOTION BY W. BROWER TO CLOSE THE PUBLIC HEARING, SECONDED BY M. NIESKI. MOTION CARRIED UNANIMOUSLY.

II. Designation of Alternates – Raymond Smith

MOTION BY S. WOODWARD TO DESIGNATE RAY SMITH AS ALTERNATE, SECONDED BY R. LAURENS. MOTION CARRIED UNANIMOUSLY.

III. Review of Minutes – October 11, 2016

MOTION BY R. LAURENS TO APPROVE THE MINUTES (10-11-16) AS PRESENTED, SECONDED BY R. SMITH. MOTION CARRIED UNANIMOUSLY.

IV. UNFINISHED BUSINESS

a. #16-02 Leon T. Parrott, 17 Tattoon Rd – Request for Variance for side yard setback.

Public Hearing had been closed at the last meeting. Additional information had been requested. The Land Use regulation for that time period was located and it was found that the side yard setback would have been 20 feet. There is a discussion on whether this could be considered a hardship or not, as a hardship must be unique to the property involved. Lot difficulties are discussed, with wetlands, ledge and sloping area causing a problem for alternate location, and also the sight line on the road which caused the driveway to be located where it is presently. Can “aging in place” which is part of the POCD, be considered for granting this hardship? After discussion, it is determined that this point is a “policy” and not part of the regulations and can be stated as an important factor in the decision. ZBA considers granting a lesser variance, only allowing for a one-car garage which would lessen the impact to the neighbor. No opposition from the neighbors was received.

MOTION BY R. LAURENS TO GRANT THE VARIANCE BASED ON A ONE-CAR GARAGE WHICH WOULD THEN BE 15 FEET FROM THE PROPERTY LINE, (TYPICALLY A ONE-CAR GARAGE IS 15 FEET), SECONDED BY S.

WOODWARD. Discussion: M. Nieski disagrees that a legal hardship even exists.

MOTION IS CARRIED. M. Nieski is opposed. No abstentions.

For the record, the Variance is 5 feet. Applicant is told by the Chair that they can come back and re-apply in 6 months for something else if the results are not acceptable.

b. #16-03 Amy Hare, Trustee & Donald E. & Ann F. Hare, 88 Pulpit Rock Rd., - appeal of ZEO for the issuance of a zoning permit to Jane Newall & Deborah Vuillemot, 78 Pulpit Rock Rd., for a 40' x 8'6" box car to be used for storage

MOTION BY M. NIESKI TO REVERSE AND OVERTURN THE ZEO'S ISSUANCE OF THE ZONING PERMIT, SECONDED BY R. LAURENS. Discussion surrounding argument of applicant, ZEO's position, lead paint. It was ZBA's general consensus that they are able to support ZEO's position, lead paint is not in their purview. If the ZEO is not upheld, then the structure would then "not" be regulated under the zoning regulations. ALL IN FAVOR OF MOTION TO OVERTURN: 0 VOTES. OPPOSED TO MOTION: 5 VOTES. MOTION UNANIMOUSLY FAILED. ZEO'S PERMIT IS SUPPORTED.

V. New Business

a. Schedule of meetings for January 2017 thru January 2018

Change February 14th meeting date to February 21, 2017. Change the date in November 21, 2017.

VII. Other

- Discussion on scheduling a training session with Steven Byrne in the upcoming year and sharing the cost with other surrounding towns that are interested in the training session, as we have done in the past. All in favor of Lajoie scheduling.
- Official letter of resignation received from Mary St. Onge. **MOTION BY W. BROWER TO ACCEPT, WITH REGRET, MARY ST. ONGE'S RESIGNATION FROM ZBA, SECONDED BY S. WOODWARD. MOTION CARRIED UNANIMOUSLY.**
- **MOTION BY W. BROWER TO MOVE RAY SMITH FROM ALTERNATE TO A FULL ZBA SEAT, SECONDED BY S. WOODWARD. MOTION CARRIED UNANIMOUSLY.**
- Quick reminder that we need new members. All alternate positions are open.

VIII. Correspondence & Bills

- a. Legal notices for Parrott & Hare, Stonebridge Press, \$58.80.
- b. Legal notice for Rondeau (old notice), Stonebridge Press, \$29.40

IX. Adjournment

MOTION TO ADJOURN AT 8:32 P.M. BY S. WOODWARD/M. NIESKI. MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,
Tina M. Lajoie, Clerk
Zoning Board of Appeals